

MONTANA LEGISLATIVE HISTORY

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Chapter 556 19 77

Bill H _____ S 269 Original bill & history ✓ c

H. Committee on Public Health,
Welfare & Safety
Hearing Date(s) 3/10 ✓ c

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Date Out 3/10 ✓ c

S. Committee on Public Health,
Welfare & Safety
Hearing Date(s) 2/1 ✓ c

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2/17 ✓

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1 *Senate* BILL NO. *269*
2 INTRODUCED BY *Blaylock*
3 BY REQUEST

4 OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TITLE 69,
7 CHAPTER 49, TO GIVE THE STATE PRIMARY ENFORCEMENT
8 RESPONSIBILITY UNDER THE FEDERAL SAFE DRINKING WATER ACT;
9 AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
10 TO ESTABLISH SAFE DRINKING WATER STANDARDS; AUTHORIZING THE
11 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO
12 ADMINISTER AND ENFORCE THE PROVISIONS OF TITLE 69, CHAPTER
13 49; PROVIDING FOR THE ISSUANCE OF VARIANCES; REQUIRING THAT
14 LABORATORIES PERFORMING ANALYSIS OF PUBLIC WATER SUPPLIES BE
15 LICENSED; PROVIDING FOR THE COLLECTION OF CIVIL PENALTIES;
16 AMENDING SECTIONS 69-4902, 69-4903, 69-4904, AND 69-4907,
17 R.C.M. 1947."

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20 Section 1. Section 69-4902, R.C.M. 1947, is amended to
21 read as follows:

22 "69-4902. Definitions. As used in this chapter, unless
23 the context clearly indicates otherwise, the following
24 definitions apply:

25 (1) "Contamination" means impairment of the quality of

1 state waters by sewage, or industrial, or other wastes
2 creating a hazard to human health.

3 (2) "Pollution" means ~~the alteration of any of the~~
4 ~~properties of state waters which is detrimental to their~~
5 ~~most beneficial use; contamination or other alteration of~~
6 ~~the physical, chemical, or biological properties of any~~
7 ~~state waters which exceeds that permitted by Montana water~~
8 ~~quality standards, including but not limited to standards~~
9 ~~relating to change in temperature, taste, color, turbidity,~~
10 ~~or odor or the discharge or introduction of any liquid,~~
11 ~~gaseous, solid, radioactive, or other substance into any~~
12 ~~state water which will or is likely to create a nuisance or~~
13 ~~render the waters harmful, detrimental, or injurious to~~
14 ~~public health, recreation, safety, welfare, livestock, wild~~
15 ~~animals, birds, fish, or other wildlife. A discharge which~~
16 ~~is authorized under the pollution discharge permit rules of~~
17 ~~the board is not "pollution" under this chapter.~~

18 (3) "Drainage" means rainfall, surface, and subsoil
19 waters.

20 (4) "Sewage" means domestic ~~and manufacturing filth~~
21 ~~and waste water-carried waste products from residences,~~
22 ~~public buildings, institutions, or other buildings,~~
23 ~~including discharge from human beings or animals together~~
24 ~~with ground water infiltration and surface water present.~~

25 (5) "State waters" means any body of water, irrigation

INTRODUCED BILL

-2-

SB269

system, or drainage system either surface or underground.

(6) "Public water supply" means the provision of water for human consumption from any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that serves ten-(10) or more families, or twenty-five-(25) or more persons on-a-regular-and-continuous basis for at least 60 days out of the calendar year.

(7) "Person" means any person individual, firm, corporation, water or ice company, public institution, municipality, or other political subdivision of the state.

(8) "Department" means the department of health and environmental sciences provided for in Title 82A, chapter 6.

(9) "Board" means the board of health and environmental sciences provided for in Title 82A, chapter 6.

(10) "Industrial waste" means any waste substance from the processes of business or industry or from the development of any natural resource together with any sewage that may be present.

(11) "Other waste" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, offal, night soil, oil, grease, tar, heat, chemicals, dead animals, sediment, wrecked or discarded equipment, radioactive materials, solid waste, and all other substances that may pollute state waters."

Section 2. Section 69-4903, R.C.M. 1947, is amended to

read as follows:

"69-4903. Functions, powers, and duties of the board of ~~health and environmental sciences. The board of health and environmental sciences shall:~~ (1) Have the board has general supervision over all state waters which are directly or indirectly being used by a person for a public water supply or domestic purposes, or as a source of ice.

(2) ~~Adopt The board shall adopt~~ rules and standards ~~and issue orders to prevent pollution and protect the quality of water and for the collection and analysis of samples of water used for drinking or domestic purposes, giving legal notice of the adoption by publication or posting, and by filing a copy in the office of the clerk of the municipality or county where the rule or standard is effective concerning:~~

(a) maximum contaminant levels for waters that are or will be used as a public water supply;

(b) fees for services rendered by the department in analyzing water and conducting inspections;

(c) monitoring, record keeping, and reporting by persons who own or operate a public water supply;

(d) requiring public notice to all users of a public water supply when a person has been granted a variance or is in violation of this chapter or a rule or order issued pursuant to this chapter;

~~(e) the issuance of licenses by the department to laboratories that conduct analysis of public water supplies;~~

~~(f) the siting, construction, operation, and modification of a public water supply;~~

~~(g) the collection and analysis of samples of water used for drinking or domestic purposes;~~

~~(h) the issuance of variances as authorized by this chapter; and~~

~~(i) any other requirement necessary for the protection of public health as described in this chapter.~~

~~(3) The board may issue orders necessary to fully implement the provisions of this chapter."~~

Section 3. Section 69-4904, R.C.M. 1947, is amended to read as follows:

"69-4904. Powers and duties of the department of health--and--environmental--sciences. The department of--health and--environmental--sciences shall:

(1) ~~Upon upon its own initiative or~~ complaint to the department, or to the mayor or health officer of a municipality or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water supply, and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;

(2) ~~Have have~~ waters examined to determine their purity and the possibility that they may endanger public

health;

(3) ~~Consult~~ consult and advise authorities of cities and towns, and persons having or about to construct systems for water supply, drainage, waste water, and sewage as to the most appropriate source of water supply and the best method of assuring its purity;

(4) ~~Advise~~ advise persons as to the best method of purifying and disposing of their drainage, sewage, or waste water with reference to the existing and future needs of other persons and to prevent pollution;

(5) ~~Consult~~ consult with persons engaged in or intending to engage in manufacturing or other business whose drainage, or sewage may tend to pollute waters as to the best method of preventing pollution;

(6) ~~Fix~~ collect fees for services rendered in analyzing water and conducting inspections to cover costs of the service and deposit receipts the fees collected in the general fund an earmarked revenue fund for use by the department;

(7) ~~Establish~~ establish and maintain experiment stations and conduct experiments to study the best methods of purifying water, drainage, waste water, sewage, and industrial waste to prevent pollution, including investigation of methods used in other states;

(8) ~~Enter~~ enter on premises at reasonable times to

1 determine sources of pollution or danger to water supplies
2 and whether rules and standards of the board are being
3 obeyed;

4 ~~(9) Notify the attorney general of violations of laws~~
5 ~~on pollution of state waters; enforce and administer the~~
6 ~~provisions of this chapter;~~

7 (10) establish a plan for the provision of safe
8 drinking water under emergency circumstances;

9 (11) maintain an inventory of public water supplies and
10 establish a program for conducting sanitary surveys; and

11 (12) enter into agreements with local boards of health
12 wherever appropriate for the performance of surveys and
13 inspections under the provisions of this chapter."

14 Section 4. There is a new R.C.M. section numbered
15 69-4905.1 that reads as follows:

16 69-4905.1. Variance. The department may grant a
17 variance from the requirements of this chapter or the rules
18 adopted under this chapter pursuant to the terms and
19 conditions of the variance rules adopted by the board. A
20 variance granted pursuant to this section shall be
21 accompanied by a compliance plan specifying a time schedule
22 for compliance. A person aggrieved by a decision of the
23 department to grant, deny, revoke, or modify a variance may
24 appeal the department's decision to the board as provided in
25 the Montana Administrative Procedure Act.

1 Section 5. There is a new R.C.M. section numbered
2 69-4905.2 that reads as follows:

3 69-4905.2. Licensing of laboratories. (1) No
4 laboratory analysis of water taken from a public water
5 supply or any report of such an analysis required by this
6 chapter or a rule adopted under this chapter may be accepted
7 by the department or board unless the analysis or report is
8 made by the laboratory of the department or by a laboratory
9 licensed by the department for such purposes. The department
10 shall issue a license to any laboratory that can meet
11 criteria for licensing established in the rules adopted by
12 the board.

13 (2) An application for a license under this section
14 shall be made on forms furnished by the department.

15 (3) A person aggrieved by a decision of the department
16 to grant, deny, or revoke a license may appeal the
17 department's decision to the board as provided in the
18 Montana Administrative Procedure Act.

19 Section 6. Section 69-4907, R.C.M. 1947, is amended to
20 read as follows:

21 "69-4907. Appeal from rule or standard -- injunction
22 to require compliance ~~-- penalties.~~ (1) A person aggrieved
23 by a rule, or standard, or order of the board adopted or
24 issued pursuant to this chapter may appeal to the district
25 court as provided in the Montana Administrative Procedure

1 Act. While the appeal is pending, the rule, or standard, or
2 order of the board is in force. The department may request
3 an injunction from the district court to require compliance
4 with rules and standards.

5 (2) The department may seek an injunction from the
6 appropriate district court to require compliance with this
7 chapter or a rule or order issued as authorized by this
8 chapter. The department may also initiate an action to
9 collect a civil penalty as provided in this section.

10 (3) A person who violates this chapter or a rule or
11 order issued as authorized by this chapter shall be subject
12 to a civil penalty of not more than \$5,000. Each day of
13 violation is a separate violation. Penalties collected shall
14 be deposited in the general fund."

-End-

STATE OF MONTANA

REQUEST NO. 531-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 10, 19 77, there is hereby submitted a Fiscal Note for SB 269 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to revise Title 69, Chapter 49, to give the state primary enforcement responsibility under the federal safe drinking water act; authorizing the Board of Health and Environmental Sciences to establish safe drinking water standards; authorizing the Department of Health and Environmental Sciences to administer and enforce the provisions of Title 69, Chapter 49; providing for the issuance of variances; requiring that laboratories performing analysis of public water supplies be licensed; and providing for the collection of civil penalties.

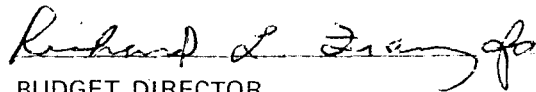
ASSUMPTIONS:

1. Matching requirements for the proposed legislation will remain at 25% state and 75% federal.
2. 1.00 FTE employee, a water systems training officer, would be added to the staff.

FISCAL IMPACT:

	<u>FY78</u>	<u>FY79</u>	<u>Total</u>
Personal services	\$ 9,220	\$9,080	\$18,300
Operating expenses	<u>780</u>	<u>(4,080)</u>	<u>(3,300)</u>
Additional cost of proposed legislation	<u>\$10,000</u>	<u>\$5,000</u>	<u>\$15,000</u>

Of the increase of \$15,000 for the biennium, \$3,750 will come from the state's general fund and \$11,250 from federal sources.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-77

45th

LEGISLATIVE SESSION

COMMITTEE ON SENATE PUBLIC HEALTH, WELFARE AND SAFETY

<u>SENATE</u> <u>BILL NO.</u>	<u>ENTERED</u> <u>COMM.</u> <u>1977</u>	<u>DATE</u> <u>CONSIDERED</u> <u>1977</u>	<u>OUT OF</u> <u>COMM.</u> <u>1977</u>	<u>DO</u> <u>PASS</u> <u>DATE</u> <u>1977</u>	<u>DO NOT</u> <u>PASS</u> <u>DATE</u> <u>1977</u>	<u>DO PASS</u> <u>AS AMEND.</u> <u>DATE</u> <u>1977</u>	<u>BE CON-</u> <u>CURRED IN</u> <u>DATE</u> <u>1977</u>	<u>BE CONC. IN</u> <u>AS AMENDED</u> <u>DATE</u> <u>1977</u>	<u>BE NOT CON-</u> <u>CURRED IN</u> <u>DATE</u> <u>1977</u>
22	Jan. 3	Jan. 18	Jan. 20			Jan. 20			
29	" 3	" 11	" 12	Jan. 12					
76	" 12	did not	tabled	(another bill addressed same issue)					
77	" 12	" "	"	"	"	" "	"		
83	" 12	Jan. 20	Jan. 25			Jan. 25			
105	" 14	" 22	" 25			Jan. 25			
154	" 20	" 27	Feb. 3	Feb. 3					
157	" 20	" 27	" "			Feb. 3			
217	" 22	" 29	" "			" "			
221	" 22	Feb. 5	" 22			WITHOUT RECOMMENDATION			
244	Feb. 3	Feb. 12	Feb. 12		Feb. 12				
246	Jan. 24	Feb. 1	tabled	(another bill addressed same issue)					
269	" 25	" "	Feb. 17	Feb. 17					
273	" 25	Feb. 3	tabled	(substitute bill SB443 instead)					
310	" 27	----	Feb. 5	(to Local Government)					
329	Feb. 9	Feb. 15	Feb. 19	Feb. 19					

(Use Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

February 1, 1977

The tenth meeting of the Senate Public Health, Welfare and Safety Committee was held in Room 405 of the State Capitol Building on Tuesday, February 1, 1977, beginning at 11:00 A.M.

ROLL CALL: All Committee members were present.

CONSIDERATION OF SENATE BILL 246: Chairman Stephens turned the meeting over to Senator Lowe, sponsor of SB246; the Billings Senator then presented his bill to the Committee. In explaining his proposed legislation, he addressed the problem of proper detention of a seriously mentally-ill person (for 72 hour period or until a hearing on his case) in adequate facilities, keeping in mind that the patient has rights. The present law, some say, already covers these areas; Senator Lowe thinks his amendments to the present law would clarify problem areas. The Senator stated that judges in communities do not or cannot send the mentally ill person to the local jail; other alternatives, such as community hospitals are not adequate, either the facilities are inadequate or the staff is not adequate. There is a need for better facilities and trained personnel to take these people. Another problem area in the present law is one of time - Senator Lowe said SB246 would see that fast action was taken on the mentally ill in the courts. If the court finds the person in question mentally ill, that person can then be detained for only 72 hours in an institution or jail, pending commitment.

Testifying on SB246 were:

1. Chad Smith, Montana Hospital Association. (Support)
2. Jim Larson, V.A. Hospital, Ft. Harrison and Mt. Hospital Assn.

Chad Smith testified that there are other people's rights involved in this problem of what to do with seriously mentally-ill persons who are out in the community and need immediate attention to keep them from harming others or themselves. Smith pointed out discrepancies in the language of the law as it stands now. SB246 would better provide for equipment and staff to handle the problem patients. A letter was read to the Committee (see Exhibit "A") from Don Danielson (Billings Deaconess Hospital) urging support of SB246.

Jim Larson testified that Montana, in its state program to de-institutionalize mentally ill patients, was also to have nine regional mental health centers. None of these centers have been established. Consequently, these potentially-dangerous patients

February 1, 1977

are released into communities that have no facilities to help the patient except the local hospitals. A few Montana hospitals have been sued because of things patients do either to themselves or to others while this institution is attempting to restrain the mentally ill person. Generally, hospitals, not having adequate facilities or trained personnel, do two things with these people: tranquilize them and then put them in a security room. Finally, Larson testified that, in his opinion, if the trend to de-institutionalize patients is to continue in the state, we need those nine mental health care centers and we need the amendment we propose to the current law, it will go far to control the patients and protect institution employees in contact with the patients, as well as provide treatment for the ill person. Mr. Larson then gave an explanation of change in regard to page 13 about the examination by the person in charge at the place of detention.

Mr. Larson completed testimony from those supporting the bill. Senator Towe then addressed the Committee. He stated there are now two bills for Judiciary Committee pertaining to the same problem areas of the mentally ill -- this bill of Senator Lowe's would be inconsistent with the other two. Towe also feels that the three bills will have to be dealt with together. He requested that Public Health, Welfare and Safety Committee simply move this bill over to Judiciary.

A discussion followed among the Committee members and Senators Lowe and Towe. Initially, the sponsor indicated he would like to keep the bill in Public Health for hearing. Later, after Chairman Stephens assured Senator Lowe that he personally would look after the bill while in Public Health Committee, that it would not die there, that he would discuss the mechanics of moving the bill over to Judiciary with both Judiciary Chairman and President of the Senate, and that Public Health would hold on to the bill pending consideration of the other bills, Senator Lowe acquiesced.

That concluded the hearing on SB246.

CONSIDERATION OF SENATE BILL 269: Senator Blaylock explained his Senate Bill 269 which he is carrying at the request of the Department of Health and Environmental Sciences. This bill is designed to enable the Department to obtain primary enforcement responsibility under the Safe Drinking Water Act (federal).

Testifying in favor of the bill were:

1. Steve Brown, Chief Council for the Department of Health
2. Arthur W. Clarkson, Sanitary Engineer, Dept. of Health and Environmental Sciences - Water Quality
3. Don Allems, Dept. of Health and Environmental Services

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Steve Brown set out for the Committee the reasons why this legislation is needed by the State. The main reason is that the EPA notified the Department of Health that Montana's laws were defective in five areas - this bill addresses these areas. Mr. Brown said this is simply another example of the "carrot and stick" situation that exists in any piece of federal legislation. Mr. Clarkson in the Water Quality Bureau in the Environmental Sciences Division has developed a very good public water supply program and in order to accomplish what has to be accomplished under the federal Safe Drinking Water Act, this legislation must be passed.

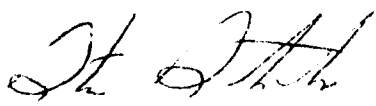
Arthur Clarkson went into the merits of the existing program and the need for this legislation as it relates to the authority of the Department and the success of Safe Drinking Water program. (See Exhibit "B".) Clarkson said at the present time Montana has no formal standards for drinking water. We have the basic law and we have used the federal U.S. Public Health Service drinking water standards as a guideline. However, we have never been challenged in the courts - we have nothing to back us up. The criticism the EPA levied against Montana has been aimed at the law.

Questions from Committee members following witnesses' testimony covered the myriad problems involved with conforming to federal guidelines, such as exactly how much Montana will receive in federal funds (\$170,000 yearly matching \$56,000 State funds) by bringing our laws into conformity; how many additional people the State would have to hire to carry out the extra work (approximately 10-12 versus how many people the federal government would have to hire to come here to do this work if Montana decided not to comply); whether it would be good for Montanans just to let the federal government come in and do the work (Brown said Montanans would not like outsiders taking care of this - anyone facing an enforcement action would have EPA people coming out of Denver for hearings - and that is the issue, who do you want the people to deal with). The question of whether the federal law is necessary as far as Montana is concerned brought a definite affirmative answer. (It was suggested that since the 1907 legislature, which enacted appropriate legislation then, the State has been coasting. The federal legislation is now timely - Montana has reached a new plateau of need.)

The hearing was concluded on Senate Bill 269 with NO ACTION being taken.

ANNOUNCEMENTS: Senate Bill 273 will be heard Thursday, February 3rd.

ADJOURNMENT: With no further business, the meeting was adjourned at 12:15 P.M.



STAN STEPHENS, Chairman

E X H I B I T "B"

AMENDMENTS ON SENATE BILL 269 TO
AMEND THE MONTANA PUBLIC WATER SUPPLY
ACT

I am Arthur W. Clarkson, Sanitary Engineer for the Department of Health and Environmental Sciences - Water Quality Bureau and have been responsible for the administration of the Safe Drinking Water program in Montana for the past 27 years.

The Montana Public Water Supply Act was originally passed in 1907. It was amended from time to time to keep it up-to-date. It now needs revision to permit the State to assume primary enforcement responsibility under the Federal Safe Drinking Water Act (PL 93-523). The primary changes will authorize the Board of Health and Environmental Sciences to establish safe drinking water standards. The Department of Health and Environmental Sciences will administer and enforce the provisions of the act, will provide for the issuance of variances and exemptions, require licensing of laboratories performing analyses of public water supplies, and may bring actions for the collection of civil penalties.

Section 69-4902 is to be revised to change the definitions of contamination, pollution, sewage, industrial waste and other wastes, to make them conform with the definitions in Section 69-4802, the Water Pollution Control law. The definition of a public water supply will be modified to relate to the definition in the federal act but will not be exactly the same as the Federal law. Montana law covers, "10 or more services", whereas the Federal law is "15 or more service connections". Montana law was changed to 10 or more families several years ago to require the small subdivision water systems to be included in the jurisdiction. 60 days per calendar year is added to meet EPA's definition in The Interim Primary Drinking Water Regulations. Montana law specifically mentions "water haulers" and "bottled water" in the definition. In the Federal law, "bottled water" is under the Food and Drug Administration not EPA and although "water haulers" are not included in the Act, an EPA legal

interpretation just received said a "water hauler" is considered as a supplier of water and must comply with the requirements of the Act. The definition of "Board" and "Department" are added for clarity.

Section 69-4903 specifies the rule making and substantive powers to be exercised by the Board. The authority of the Board to establish maximum contaminant levels is necessary to implement the Interim Primary Drinking Water Regulations as adopted by EPA. This is the most important grant of authority contained in the proposed law. Monitoring, record keeping, and reporting by persons who own or operate a public water supply is also a requirement of the Federal Safe Drinking Water Act.

Section 69-4904 remains, primarily, as it is presently in force. Under paragraph 1, the only change is to add "its own initiative" to permit the department to initiate investigations in addition to making such investigations upon complaints received. Under paragraph 6 of Section 69-4904, the present law states that the department shall fix fees. This language is being changed to authorize the collection of fees for services rendered in analyzing water and conducting inspections. The fees would be collected to cover the cost of services rendered and the fees would be deposited in an earmarked revenue fund. At the present time, moneys are collected and deposited in the general fund. The amount of money anticipated this current fiscal year will amount to over \$65,790 if all water supplies pay their annual fee. With the addition of more supplies in the monitoring and surveillance program, it is anticipated that this revenue will increase.

Paragraphs 10, 11 and 12 of Section 69-4904 are new provisions primarily to bring our laws in conformance with the federal law and to cover such items that have not been included in the State Act. The Department has worked with the Office of Civil Defense and the Office of Emergency Protection to provide waters in times of disasters, but there was no formal requirement for this program under our existing law. In the

same manner, the department has maintained an inventory and record of public water supplies and has conducted annual sanitary surveys of all water supplies in the state, but again, this was not a requirement of the state law. In order to reach the small water utilities and the noncommunity water supplies which will be coming under the provisions of the Federal Act in 1978, it is desirable to have authority to negotiate with local boards of health when appropriate to request their assistance in performing the surveys and inspections under the act and to be able to offer them payment for this service.

Initially, under the Interim Primary Drinking Water Regulations adopted by EPA, there will be certain maximum contaminant levels which cannot be complied with by water supplies in Montana. It will be necessary to grant variances and exemptions to the Interim Primary Drinking Water Regulations until such time as the water supplies can be brought into compliance with the standards. The present act does not authorize the issuance of variances or exemptions for noncompliance with rules or other requirements of the Act.

The new section, 69-4905.2, Licensing of Laboratories, will be established so that laboratories performing analyses of public water supplies and issuing reports will be using the same standards and test techniques, and the same quality of work throughout the state.

Section 69-4907 is Appeal from Rule or Standard Injunction to Require Compliance. Under this section, the original act provided that a person aggrieved by a rule, standard, or order could appeal to the district court. This has been changed to bring the provisions of the Act into conformity with the Montana Administrative Procedures Act. This section is also being amended to authorize the Department to initiate action to collect a civil penalty. The Federal Act requires that a state have the authority to initiate actions for civil penalties before enforcement authority will be

granted by EPA.

The proposed revisions to the Safe Drinking Water Act will be beneficial to the health and welfare of the people of Montana. It brings needed changes to a good law which has been in effect for 70 years.

NAME: Alvin W. Clarkson DATE: 2-1-77

ADDRESS: 411 S. Helena 1217

PHONE: 442 2213 449 2404

REPRESENTING WHOM? State Dept Health & Env. Sc

APPEARING ON WHICH PROPOSAL: SB 269

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

NAME: Steve Brown

DATE: 2/1/77

ADDRESS: 917 Cannon

PHONE: 443-5108 449-2630

REPRESENTING WHOM? Dept. of Health & Environmental Sciences

APPEARING ON WHICH PROPOSAL: S B. 269

DO YOU: SUPPORT? ☒

AMEND?

OPPOSE?

COMMENTS:

Dr. Williams

2-1-77

Div. of Health & E.S.

447-2406

State Dept of Health

SB 269

SUPPORT? X

AMEND? _____

OPPOSE? _____

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(continued)

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

February 17, 1977

The seventeenth meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Stephens in Room 405 of the State Capitol Building on Thursday, February 17, 1977, at approximately 11:00 A.M.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 425: With Senator Boylan unable to present his bill, Chairman Stephens turned the meeting over to Laurine France, representing the Montana Chiropractic Association. She, in turn, presented Ed Carney from the Department of Professional and Occupational Licensing, who explained his department's interest in the bill and the chiropractors' profession. Carney then introduced Dr. Kaye of the Board of Chiropractors, Missoula.

Dr. W. J. Kaye explained the bill and its effects on the chiropractic practice in Montana (see Exhibit "A"). Kaye said this would give the Board better policing power and control of the organization.

Proponents having finished their testimony and there being no opponents, the Committee turned to questions.

The hearing was then closed on Senate Bill 425, with NO ACTION taken.

CONSIDERATION OF SENATE BILL 427: Senator Lensink introduced his bill concerning confidential health information, and then introduced J. T. Loendorf, who represented the Montana Medical Association in his testimony. Mr. Loendorf stated there are now a number of statutes on the books covering the bill's subject, but those bills constitute a patchwork approach. This bill attempts to cover the matter with one law. Loendorf then went through the bill in great detail, explaining it to the Committee.

Ronald Semple, publisher of the "Independent Record" and representing the Montana Press Association, began the opponent's testimony. Semple said his people oppose the bill in its entirety. He objected as a "third party". Mr. Semple said there would be no way to amend the bill that would be satisfactory to the press because it is too well written. The issue, of course, he said, is the citizen's right to privacy versus the public's right to know. His objection centered on the term, "written consent," in the bill - that alone would cause untold harm to newspaper reporting of obituaries, accidents, births, etc. because the papers would have to acquire parties' written consent to print. Semple closed by saying that if this law is passed, it will be a great assault on the freedom of the press.

February 17, 1977

out parental consent) and the comment made by Mrs. Winder that her family planning services staff now have a lot of teenagers asking for help but the staff cannot without the parental consent. The family planning services have to turn the kids away.

Hearing on Senate Bill 355 was concluded with NO ACTION taken.

ACTION ON SENATE BILL 273: Chairman Stephens brought Sponsor Lee's bill back before the Committee, asking if they wished to act on the present bill or to sign a substitute bill as a Committee bill.

On a roll call vote, the Committee voted, 6 yes, 2 absent, to sign the substitute bill as a committee bill. SB273 will be tabled.

CONSIDERATION ON SENATE BILL 221: Chairman Stephens, after some discussion, asked for a roll call vote on the disposition of this bill. Senator Roberts moved that this bill be kept in Committee until Saturday, so that inquiry could be made on the disposition of a very similar bill in House Public Health Committee and the Chairman would also have time to confer with the sponsor.

CONSIDERATION ON SENATE BILL 246: NO ACTION after some discussion by the Committee of this bill. Senators Olson and Roberts reported similar bills to SB246 are in Judiciary Committee. Chairman Stephens requested the above-mentioned Senators discuss the bill with the sponsor. Committee agreed to act on bill Saturday, February 19.

ACTION ON SENATE BILL 269: After a short question and answer period with Department Counsel Teve Brown and the Committee members concerning fiscal impact, federal and state, Senator Watt moved SB269 DO PASS - motion carried 6 yes, 1 abstained (Senator Rasmussen due to the fact he was not in Committee when bill was heard) and one Senator absent.

ACTION ON SENATE BILL 341: Senator Rasmussen moved the amendments presented to Committee by Senator Dover (see Exhibit "F"). By a voice vote, motion carried. Senator Rasmussen then moved the bill, with amendments, DO PASS - motion failed, 2 to 6.

ACTION ON SENATE BILL 399: During the discussion, Senator Watt proposed three amendments. Dr. Kaye rose with an objection to the third amendment, i.e., "However, this written examination may be taken only by those licensed chiropractors who have a B.A. degree or its equivalent and have completed at least four semesters in an accredited chiropractic college". Senator Rasmussen asked if these requirements would be only for those who wish to do blood work, the answer from Senator Watt was affirmative. Dr. Kaye said it does not take a great deal of knowledge to draw blood but to diagnose the problem from that blood is the important thing. Senator Watt moved his amendments - motion failed, 2 to 5, with one Senator absent. Senator Olson then moved SB399 do not pass; Senator Rasmussen moved a substitute motion that SB399 DO PASS - by a roll call vote, motion failed, 3 to 5; Senator Roberts requested a change in his vote, to tie the voting. SB399 reported Out of Committee WITHOUT RECOMMENDATION.

ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE :

2/17/77

[illegible]

R O L L C A L L

VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE AND SAFETY

45th LEGISLATIVE SESSION - 1977.

Date Feb 17 Bill No. 269 Time _____

NAME S:	YES	NO
LEE, Robert	<i>absent</i>	LEE
RASMUSSEN, Tom <i>did not hear testimony</i>	<i>abstaining</i>	RASMUSSEN
OLSON, Stuart	1	OLSON
HIMSL, Matt	2	HIMSL
WATT, Robert	3	WATT
ROBERTS, Joe	4	ROBERTS
NORMAN, Bill - V. Chm.	5	NORMAN
STEPHENS, Stan - Chairman	6	STEPHENS

Joyce (Kelly) Allen
Secretary

STAN STEPHENS
Chairman

Motion: SENATOR WATT MOVES "DO PASS"

WATT

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

FEBRUARY 18

19 77

MR. PRESIDENT

We, your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration SENATE Bill No. 269

Respectfully report as follows: That SENATE Bill No. 269,
introduced bill

DO PASS



PUBLIC HEALTH WELFARE & SAFETY COMMITTEE

45th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 331	TO ALLOW AN OPTICIAN TO PERFORM MECHANICAL WORK ON AN OPHTHALMIC LENS ORDERED BY A REGISTERED OPTOMETRIST, REGARDLESS OF WHO EMPLOYS THE OPTICIAN.	2/18/77	Sen. Lensink	3/10/77	BE CONCURRED IN AS AMENDED	3/17/77
HJR 73	CENSURING THEATER OWNERS WHO DISPLAY OFFENSIVE PREVIEWS WHEN MINORS ARE PERMITTED TO ATTEND THE THEN-FEATURED MOTION PICTURE..	2/21/77	Menahan (COMMITTEE BILL)	2/22/77	DO PASS	2/22/77
SB 269	TO GIVE THE STATE PRIMARY ENFORCEMENT RESPONSIBILITY UNDER THE FEDERAL SAFE DRINKING WATER ACT...	3/2/77	Sen. Blaylock, by request	3/10/77	BE CONCURRED IN AS AMENDED	3/10/77
SB 399	REDEFINING CHIROPRACTIC & PROVIDING THAT NO MEMBER OF THE BOARD MAY BE APPOINTED FOR MORE THAN TWO CONSECUTIVE TERMS...	3/2/77	Sen. Boylan, by request	3/22/77	BE CONCURRED IN AS AMENDED	3/24/77
SB 83	RELATING TO CIVIL DEFENSE, DISASTER, & EMERGENCY SERVICES; PROVIDING POWERS, DUTIES & AUTHORITY FOR PREPAREDNESS & ASSISTANCE IN EMERGENCIES & DISASTERS..	3/3/77	Sen. Rasmussen	3/8/77	BE CONCURRED IN AS AMENDED	3/10/77
SB 221	TO REPEAL R.C.M. SECTIONS PROVIDING FOR LICENSURE OF RADIOLOGIC TECHNICIANS & REPEALING SEC. WHICH PROVIDES FOR THE BD. OF RAD. TECHNOLOGISTS.	3/3/77	Sen. Etchart			

March 10, 1977

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the House Public Health, Welfare and Safety Committee was held on Thursday, March 10, 1977 at 10:00 a.m. in Room 431 of the State Capitol. All members were present with the exception of Reps. Palmer, Colburn, Gould, Harper and Kimble, who were excused.

SENATE BILL 331 was the first bill to be heard. Senator Lensink was the sponsor. He explained the bill. Present law does not allow an optometrist to write a prescription and have it filled by an optician outside of his office. This bill would make this legal. At present, the only outside prescriptions that can be filled are those filled out by physicians. Senator Rasmussen then spoke up as a proponent of the bill. There have been some disagreements in the past years in this area, but they have been ironed out. The Montana Optometric Association supports this bill.

There were no opponents to SENATE BILL 331. Questions were asked. Rep. Kenny pointed out that some opticians who were opposed to this bill had contacted him.

The committee then went into executive session. SENATE JOINT RESOLUTION 8 was considered. Rep. Cooney moved that it BE CONCURRED IN. Rep. Wyrick seconded the motion. Rep. Lynch expressed problems with the bill. Laws on this matter were written to protect the client. Unless a person goes to a physician first, it might not be determined whether he has a genuine problem. Rep. Holmes suggested some amendments, which Dr. Malee (Board of Medical Examiners) had concurred in. The amendments would direct the Board to consider setting up some sort of weekly reporting system. Rep. Menahan commented that chiropractors were in the same sort of category, and they don't have to be referred by a physician. Rep. Cooney spoke up in support of the profession of acupuncture, and described a case in Anaconda where an acupuncturist had been forced to relocate in another state after the current law was implemented. Rep. Kenny commented that all the bill is doing is making it more convenient for the people who do not live in Missoula (where there are four acupuncturists who are also M.D.'s) to receive treatment. Rep. Wyrick stated that we should have the privilege of free choice in the matter. Rep. Holmes then moved acceptance of her amendment. Further discussion took place. Rep. Porter stated that he didn't think the amendment added a great deal to the resolution. He then spoke on the resolution. It is poor legislation; our job is to protect the public. This is a relatively new science in this country. We are just in the right place; let's see these people perform longer and if there is merit to the profession, then other M.D.'s will receive similar training. Rep. Cooney stressed

March 10, 1977

Amend page 4, line 11, after "subdivision" insert "including a certificate of survey". Steve Brown, attorney for the Dept. of Health, had suggested that this material be reinserted; it had been amended out in the Senate. If this material is not amended back in, court litigations will have to resolve the problem. He also suggested an additional amendment. If SB 226 passes, he is going to lose \$60,000 in review fees. He is going to have to gut his staff. There are two alternatives open to him; (1) increase the fees, or (2) go to general fund money. He has been informed that it will be hard to get general fund money.

Cliff Christian, Montana Assoc. of Realtors, then spoke. He is in support of the bill, minus any amendments. The general fund can afford to give that bureau \$60,000, in his opinion. Only a letter has been written thus far in attempts to receive this funding. He stressed that it is much easier to raise the fees than to ask for money.

There were no opponents to SENATE BILL 310. Discussion then took place. Rep. Feda asked Mr. Christian why he objected to the amendment. Mr. Christian replied that sometimes only small pieces of land are being bought, and they will have no facilities on them, and this would require them to have a certificate of survey. Mr. Casne then said that the items Mr. Christian was referring to were both exempted. Rep. Lynch then directed his comments at Mr. Casne. "You don't want SB 226 to pass because your staff will be cut. At the same time, you want money to make up for the loss in case SB 226 does pass. However, if this bill passes and SB 226 passes, you will have the problem Mr. Christian addresses." Mr. Casne replied that the exemption concerning adjustment of lot lines is already in the law; eminent domain covers it. The exemption in SB 226 is only a reworded version of the existing law. He supported the need for a legal staff in his bureau. If SB 226 passes, he won't need another engineer, but regardless he will need another secretary. Rep. Lynch then addressed Mr. Christian, asking him if he felt that those things were exempted under the present law. Mr. Christian said that they were being reviewed by the Dept. of Health right now. The chairman then interrupted and asked the committee members if they felt this bill should be handled by this committee, since its companion bill SB 226 was in the Natural Resources Committee. It was resolved to have this bill also moved to that committee. The hearing was closed.

SENATE BILL 269 was then heard. The sponsor was Senator Blaylock. Arthur W. Clarkson opened; see prepared statement.

There were no opponents to SB 269. Questions were asked. The licensing fee has not been determined for the labs. It is a

March 10, 1977

certification rather than a licensure, also. The Senate amended the bill to remove the civil penalty clause. Mr. Clarkson suggested to remove Section 69-4908 from the statutes, also, because it created a duplication. The committee attorney, Mr. Pyfer, concurred in this suggestion. The hearing was closed.

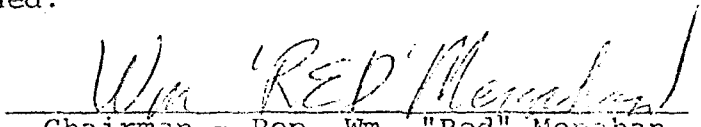
The committee then went into executive session.

SENATE BILL 83 was acted on. The amendments which had been submitted by the governor's office were discussed. Rep. Porter then moved acceptance of the amendments; motion carried with Reps. Stobie, Feda and Wyrick opposed. Rep. Porter then moved that SB 83 BE CONCURRED IN AS AMENDED; Rep. Gunderson seconded the motion. Motion carried with Rep. Stobie opposed. Rep. Porter agreed to carry the bill on the floor.

SENATE BILL 331 was then acted on. Rep. Lynch moved and Rep. Cooney seconded that the bill BE CONCURRED IN. Mr. Pyfer then commented. Everything in the original bill was stricken, following the enacting clause, in the Senate. The original bill only struck the last part of an entire section of the law. There are some problems concerning the entire matter, as a result of the Senate's actions. Rep. Lynch then moved to defer action on this bill. Motion carried.

SENATE BILL 269 was considered. Rep. Feda moved and Rep. Lynch seconded to amend the bill by striking Section 69-4908 in its entirety, and AS SO AMENDED BE CONCURRED IN. Motion carried unanimously. Rep. Metcalf agreed to carry this bill.

The meeting was adjourned.


Chairman - Rep. Wm. "Red" Menahan

Secretary

SENATE BILL NO. 269
INTRODUCED BY BLAYLOCK

BY REQUEST

OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TITLE 69, CHAPTER 49, TO GIVE THE STATE PRIMARY ENFORCEMENT RESPONSIBILITY UNDER THE FEDERAL SAFE DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH SAFE DRINKING WATER STANDARDS; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADMINISTER AND ENFORCE THE PROVISIONS OF TITLE 69, CHAPTER 49; PROVIDING FOR THE ISSUANCE OF VARIANCES; REQUIRING THAT LABORATORIES PERFORMING ANALYSIS OF PUBLIC WATER SUPPLIES BE LICENSED; PROVIDING FOR THE COLLECTION OF CIVIL PENALTIES; AMENDING SECTIONS 69-4902, 69-4903, 69-4904, AND 69-4907, R.C.M. 1947; AND REPEALING SECTION 69-4908, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-4902, R.C.M. 1947, is amended to read as follows:

"69-4902. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Contamination" means impairment of the quality of

state waters by sewage, or industrial, or other wastes creating a hazard to human health;

(2) "Pollution" means the alteration of any of the properties of state waters which is detrimental to their most beneficial use; contamination or other alteration of the physical, chemical, or biological properties of any state waters which exceeds that permitted by Montana water quality standards, including but not limited to standards relating to change in temperature, taste, color, turbidity, or odor, or the discharge or introduction of any liquid, gaseous, solid, radioactive, or other substance into any state water which will or is likely to create a nuisance or render the waters harmful, detrimental, or injurious to public health, recreation, safety, welfare, livestock, wild animals, birds, fish, or other wildlife. A discharge which is authorized under the pollution discharge permit rules of the board is not "pollution" under this chapter.

(3) "Drainage" means rainfall, surface, and subsoil waters;

(4) "Sewage" means domestic and manufacturing effluent and waste water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals together with ground water infiltration and surface water seepage;

(5) "State waters" means any body of water, irrigation

REFERENCE BILL

1 system, or drainage system either surface or underground.

2 (6) "Public water supply" means the provision of water
3 for human consumption from any community well, water hauler
4 for cisterns, water bottling plant, water dispenser, or
5 other water supply that serves ten-{10} or more families, or
6 twenty-five-{25} or more persons on-a-regular-and-continuous
7 basis for at least 60 days out of the calendar year.

8 (7) "Person" means any person individual, firm,
9 corporation, water or ice company, public institution,
10 municipality, or other political subdivision of the state.

11 (8) "Department" means the department of health and
12 environmental sciences provided for in Title 82A, chapter 6.

13 (9) "Board" means the board of health and
14 environmental sciences provided for in Title 82A, chapter 6.

15 (10) "Industrial waste" means any waste substance from
16 the processes of business or industry or from the
17 development of any natural resource together with any sewage
18 that may be present.

19 (11) "Other waste" means garbage, municipal refuse,
20 decayed wood, sawdust, shavings, bark, lime, sand, ashes,
21 offal, night soil, oil, grease, tar, heat, chemicals, dead
22 animals, sediment, wrecked or discarded equipment,
23 radioactive materials, solid waste, and all other substances
24 that may pollute state waters."

25 Section 2. Section 69-4903, R.C.M. 1947, is amended to

1 read as follows:

2 "69-4903. Functions, powers, and duties of the board
3 ~~of health and environmental sciences. The board of health~~
4 ~~and environmental sciences shall:~~ (1) Have the board has
5 general supervision over all state waters which are directly
6 or indirectly being used by a person for a public water
7 supply or domestic purposes, or as a source of ice.

8 (2) Adopt the board shall adopt rules and standards
9 ~~and issue orders to prevent pollution and protect the~~
10 ~~quality of water and for the collection and analysis of~~
11 ~~samples of water used for drinking or domestic purposes,~~
12 ~~giving legal notice of the adoption by publication or~~
13 ~~posting, and by filing a copy in the office of the clerk of~~
14 ~~the municipality or county where the rule or standard is~~
15 effective concerning:

16 (a) maximum contaminant levels for waters that are or
17 will be used as a public water supply;

18 (b) fees for services rendered by the department in
19 analyzing water and conducting inspections;

20 (c) monitoring, record keeping, and reporting by
21 persons who own or operate a public water supply;

22 (d) requiring public notice to all users of a public
23 water supply when a person has been granted a variance or is
24 in violation of this chapter or a rule or order issued
25 pursuant to this chapter;

(e) ~~the issuance of licenses by the department to laboratories that conduct analysis of public water supplies;~~

(f) ~~the siting, construction, operation, and modification of a public water supply;~~

(g) ~~the collection and analysis of samples of water used for drinking or domestic purposes;~~

(h) ~~the issuance of variances as authorized by this chapter; and~~

(i) ~~any other requirement necessary for the protection of public health as described in this chapter.~~

(3) ~~The board may issue orders necessary to fully implement the provisions of this chapter."~~

Section 3. Section 69-4904, R.C.M. 1947, is amended to read as follows:

"69-4904. Powers and duties of the department of health--and-environmental-sciences. The department of--health and-environmental-sciences shall:

(1) ~~Upon upon its own initiative or~~ complaint to the department, or to the mayor or health officer of a municipality or to the managing board or officer of a public institution, make an investigation of alleged pollution of a water supply and, if required, prohibit the continuance of the pollution by ordering removal of the cause of pollution;

(2) Have ~~have~~ waters examined to determine their purity and the possibility that they may endanger public

health;

(3) ~~Consult~~ consult and advise authorities of cities and towns, and persons having or about to construct systems for water supply, drainage, waste water, and sewage as to the most appropriate source of water supply and the best method of assuring its purity;

(4) ~~Advise~~ advise persons as to the best method of purifying and disposing of their drainage, sewage, or waste water with reference to the existing and future needs of other persons and to prevent pollution;

(5) ~~Consult~~ consult with persons engaged in or intending to engage in manufacturing or other business whose drainage, or sewage may tend to pollute waters as to the best method of preventing pollution;

(6) ~~Fix~~ collect fees for services rendered in analyzing water and ~~conducting~~ inspections to cover costs of the service and deposit receipts ~~the fees collected in the general fund~~ an earmarked revenue fund for use by the department;

(7) ~~Establish~~ establish and maintain experiment stations and conduct experiments to study the best methods of purifying water, drainage, waste water, sewage, and industrial waste to prevent pollution, including investigation of methods used in other states;

(8) ~~Enter~~ enter on premises at reasonable times to

1 determine sources of pollution or danger to water supplies
2 and whether rules and standards of the board are being
3 obeyed;

4 ~~(9) Notify the attorney general of violations of laws~~
5 ~~on pollution of state waters; enforce and administer the~~
6 ~~provisions of this chapter;~~

7 ~~(10) establish a plan for the provision of safe~~
8 ~~drinking water under emergency circumstances;~~

9 ~~(11) maintain an inventory of public water supplies and~~
10 ~~establish a program for conducting sanitary surveys; and~~

11 ~~(12) enter into agreements with local boards of health~~
12 ~~wherever appropriate for the performance of surveys and~~
13 ~~inspections under the provisions of this chapter."~~

14 Section 4. There is a new R.C.M. section numbered
15 69-4905.1 that reads as follows:

16 69-4905.1. Variance. The department may grant a
17 variance from the requirements of this chapter or the rules
18 adopted under this chapter pursuant to the terms and
19 conditions of the variance rules adopted by the board. A
20 variance granted pursuant to this section shall be
21 accompanied by a compliance plan specifying a time schedule
22 for compliance. A person aggrieved by a decision of the
23 department to grant, deny, revoke, or modify a variance may
24 appeal the department's decision to the board as provided in
25 the Montana Administrative Procedure Act.

1 Section 5. There is a new B.C.M. section numbered
2 69-4905.2 that reads as follows:

3 69-4905.2. Licensing of laboratories. (1) No
4 laboratory analysis of water taken from a public water
5 supply or any report of such an analysis required by this
6 chapter or a rule adopted under this chapter may be accepted
7 by the department or board unless the analysis or report is
8 made by the laboratory of the department or by a laboratory
9 licensed by the department for such purposes. The department
10 shall issue a license to any laboratory that can meet
11 criteria for licensing established in the rules adopted by
12 the board.

13 (2) An application for a license under this section
14 shall be made on forms furnished by the department.

15 (3) A person aggrieved by a decision of the department
16 to grant, deny, or revoke a license may appeal the
17 department's decision to the board as provided in the
18 Montana Administrative Procedure Act.

19 Section 6. Section 69-4907, R.C.M. 1947, is amended to
20 read as follows:

21 "69-4907. Appeal from rule or standard -- injunction
22 to require compliance -- penalties. (1) A person aggrieved
23 by a rule, ~~or~~ standard, ~~or order of the board adopted or~~
24 ~~issued pursuant to this chapter~~ may appeal to the district
25 court ~~as provided in the Montana Administrative Procedure~~

~~Act. While the appeal is pending, the rule, or standard, or order of the board is in force. The department may request an injunction from the district court to require compliance with rules and standards.~~

(2) The department may seek an injunction from the appropriate district court to require compliance with this chapter or a rule or order issued as authorized by this chapter. The department may also initiate an action to collect a civil penalty as provided in this section.

~~(3) A person who violates this chapter or a rule or order issued as authorized by this chapter shall be subject to a civil penalty of not more than \$5,000. Each day of violation is a separate violation. Penalties collected shall be deposited in the general fund. (3) PENALTY FOR VIOLATIONS. ANY PERSON VIOLATING THIS ACT OR REGULATIONS PRESCRIBED BY THE DEPARTMENT UNDER THIS ACT, SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE FINED NOT LESS THAN \$50 NOR MORE THAN \$500. EACH DAY UPON WHICH A VIOLATION OF THIS ACT OCCURS SHALL BE CONSIDERED A SEPARATE OFFENSE."~~

SECTION 7. REPEALER. SECTION 69-4908, R.C.M., 1947, IS REPEALED.

-End-

SENATE BILL NO. 269
INTRODUCED BY BLAYLOCK
BY REQUEST

OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TITLE 69, CHAPTER 49, TO GIVE THE STATE PRIMARY ENFORCEMENT RESPONSIBILITY UNDER THE FEDERAL SAFE DRINKING WATER ACT; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH SAFE DRINKING WATER STANDARDS; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADMINISTER AND ENFORCE THE PROVISIONS OF TITLE 69, CHAPTER 49; PROVIDING FOR THE ISSUANCE OF VARIANCES; REQUIRING THAT LABORATORIES PERFORMING ANALYSIS OF PUBLIC WATER SUPPLIES BE LICENSED; PROVIDING FOR THE COLLECTION OF CIVIL PENALTIES; AMENDING SECTIONS 69-4902, 69-4903, 69-4904, AND 69-4907, R.C.M. 1947; AND REPEALING SECTION 69-4908, R.C.M. 1947."

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(3) "Drainage" means rainfall, surface, and subsoil water.

(4) "Sewage" means ~~domestic and manufacturing filth and waste; water-carried waste products from residences, public buildings, institutions, or other buildings, including discharge from human beings or animals together with ground water infiltration and surface water present.~~

(5) "State waters" means any body of water, irrigation

system, or drainage system either surface or underground.

(6) "Public water supply" means the provision of water for human consumption from any community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that serves ~~ten-(10)~~ or more families or ~~twenty-five-(25)~~ or more persons ~~on-a-regular-and-continuous basis~~ for at least 60 days out of the calendar year.

(7) "Person" means any person individual, firm, corporation, water or ice company, public institution, municipality, or other political subdivision of the state.

(8) "Department" means the department of health and environmental sciences provided for in Title 82A, chapter 6.

(9) "Board" means the board of health and environmental sciences provided for in Title 82A, chapter 6.

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(2) ~~Adopt~~ The board shall adopt rules and standards ~~and issue orders to prevent pollution and protect the quality of water and for the collection and analysis of samples of water used for drinking or domestic purposes, giving legal notice of the adoption by publication or posting, and by filing a copy in the office of the clerk of the municipality or county where the rule or standard is effective concerning:~~

(a) maximum contaminant levels for waters that are or will be used as a public water supply;

(b) fees for services rendered by the department in analyzing water and conducting inspections;

(c) monitoring, record keeping, and reporting by persons who own or operate a public water supply;

(d) requiring public notice to all users of a public water supply when a person has been granted a variance or is in violation of this chapter or a rule or order issued pursuant to this chapter;

1 ~~(e) the issuance of licenses by the department to~~
2 ~~laboratories that conduct analysis of public water supplies;~~

3 ~~(f) the siting, construction, operation, and~~
4 ~~modification of a public water supply;~~

5 ~~(g) the collection and analysis of samples of water~~
6 ~~used for drinking or domestic purposes;~~

7 ~~(h) the issuance of variances as authorized by this~~
8 ~~chapter; and~~

9 ~~(i) any other requirement necessary for the protection~~
10 ~~of public health as described in this chapter.~~

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13 Section 3. Section 69-4904, R.C.M. 1947, is amended to
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19 department, or to the mayor or health officer of a
20 municipality or to the managing board or officer of a public
21 institution, make an investigation of alleged pollution of a
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23 the pollution by ordering removal of the cause of pollution;

24 (2) ~~Have~~ have waters examined to determine their
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1 health;

2 (3) ~~Consult~~ consult and advise authorities of cities
3 and towns, and persons having or about to construct systems
4 for water supply, drainage, waste water, and sewage as to
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7 (4) ~~Advise~~ advise persons as to the best method of
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10 other persons and to prevent pollution;

11 (5) ~~Consult~~ consult with persons engaged in or
12 intending to engage in manufacturing or other business whose
13 drainage, or sewage may tend to pollute waters as to the
14 best method of preventing pollution;

15 (6) ~~Fix~~ collect fees for services rendered in
16 analyzing water and conducting inspections to cover costs of
17 the service and deposit ~~receipts the fees collected in the~~
18 ~~general fund an earmarked revenue fund for use by the~~
19 department;

20 (7) ~~Estoblish~~ establish and maintain experiment
21 stations and conduct experiments to study the best methods
22 of purifying water, drainage, waste water, sewage, and
23 industrial waste to prevent pollution, including
24 investigation of methods used in other states;

25 (8) ~~Enter~~ enter on premises at reasonable times to

determine sources of pollution or danger to water supplies and whether rules and standards of the board are being obeyed;

~~(9) notify the attorney general of violations of laws on pollution of state waters, enforce and administer the provisions of this chapter;~~

~~(10) establish a plan for the provision of safe drinking water under emergency circumstances;~~

~~(11) maintain an inventory of public water supplies and establish a program for conducting sanitary surveys; and~~

~~(12) enter into agreements with local boards of health wherever appropriate for the performance of surveys and inspections under the provisions of this chapter."~~

Section 4. There is a new R.C.M. section numbered 69-4905.1 that reads as follows:

69-4905.1. Variance. The department may grant a variance from the requirements of this chapter or the rules adopted under this chapter pursuant to the terms and conditions of the variance rules adopted by the board. A variance granted pursuant to this section shall be accompanied by a compliance plan specifying a time schedule for compliance. A person aggrieved by a decision of the department to grant, deny, revoke, or modify a variance may appeal the department's decision to the board as provided in the Montana Administrative Procedure Act.

Section 5. There is a new R.C.M. section numbered 69-4905.2 that reads as follows:

69-4905.2. Licensing of laboratories. (1) No laboratory analysis of water taken from a public water supply or any report of such an analysis required by this chapter or a rule adopted under this chapter may be accepted by the department or board unless the analysis or report is made by the laboratory of the department or by a laboratory licensed by the department for such purposes. The department shall issue a license to any laboratory that can meet criteria for licensing established in the rules adopted by the board.

(2) An application for a license under this section shall be made on forms furnished by the department.

(3) A person aggrieved by a decision of the department to grant, deny, or revoke a license may appeal the department's decision to the board as provided in the Montana Administrative Procedure Act.

Section 6. Section 69-4907, R.C.M. 1947, is amended to read as follows:

"69-4907. Appeal from rule or standard -- injunction to require compliance -- penalties. (1) A person aggrieved by a rule, or standard, or order of the board adopted or issued pursuant to this chapter may appeal to the district court ~~as provided in the Montana Administrative Procedure~~

1 ~~Act. While the appeal is pending, the rule, or standard, or~~
 2 ~~order of the board is in force. The department may request~~
 3 ~~an injunction from the district court to require compliance~~
 4 ~~with rules and standards.~~

5 (2) ~~The department may seek an injunction from the~~
 6 ~~appropriate district court to require compliance with this~~
 7 ~~chapter or a rule or order issued as authorized by this~~
 8 ~~chapter. The department may also initiate an action to~~
 9 ~~collect a civil penalty as provided in this section.~~

10 ~~(3) A person who violates this chapter or a rule or~~
 11 ~~order issued as authorized by this chapter shall be subject~~
 12 ~~to a civil penalty of not more than \$5,000. Each day of~~
 13 ~~violation is a separate violation. Penalties collected shall~~
 14 ~~be deposited in the general fund. (3) PENALTY FOR~~
 15 ~~VIOLATIONS. ANY PERSON VIOLATING THIS ACT OR REGULATIONS~~
 16 ~~PRESCRIBED BY THE DEPARTMENT UNDER OR ANY RULE OR ORDER OF~~
 17 ~~THE BOARD OR DEPARTMENT ISSUED UNDER THE PROVISION OF THIS~~
 18 ~~ACT, SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION,~~
 19 ~~SHALL BE FINED NOT LESS THAN \$50 NOR MORE THAN \$500. EACH~~
 20 ~~DAY UPON WHICH A VIOLATION OF THIS ACT OCCURS SHALL BE~~
 21 ~~CONSIDERED A SEPARATE OFFENSE."~~

22 SECTION 7. ~~REPEALER. SECTION 69-4908, R.C.M. 1947, IS~~
 23 ~~REPEALED.~~

-End-